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EXAMINER

GUIDOTTI, LAURA COLE

ART UNIT	PAPER NUMBER
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1744

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/825,998	Applicant(s) MATHESON, JUSTIN W.	
	Examiner Laura C. Guidotti	Art Unit 1744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 June 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 June 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1, 3-5, 7-8, 12, 16, and 18-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Chen, US 6,453,503.

Chen discloses the claimed invention including an elongate handle (14), the handle having an upper and a lower end (upper end is leftmost end as shown in Figure 2 and lower end is rightmost end as shown in Figure 2), a forward side and a rearward side (the forward side is uppermost side in Figure 2, and bottom side is the rearward side), and a periphery (Figure 2), wherein at least the lower end is adapted for grasping (Column 2 Lines 18-19), the upper end of the handle having a slot (46 or those marked 47 in Figure 5), the slot having a slot opening in the periphery of the handle upper end (opening shown in Figures 2 and 4) and the slot being oriented substantially parallel to a center longitudinal axis of the handle (clearly shown in Figure 4 that 46 is parallel to and along the longitudinal axis of the handle or alternatively in Figure 5 either of slots 47 are also parallel to the longitudinal axis of the handle, the longitudinal axis extending vertically through 14 as oriented in Figure 4), wherein the handle has at least one retaining slit therein (such as 47 in Figures 2 or 4 or alternatively those marked 46 in

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Figure 5), the at least one retaining slit being proximate to the slot (Figure 2 and 4), being oriented at an angle greater than about 90 degrees with respect to the slot (as shown in Figures 4 or 5) and having a slit opening in the periphery of the handle upper end (see Figures 2 and 4-5), and a porous scrubbing material (12) having an attaching cord affixed thereto (16), whereby the cord is adapted to pass through the slot and engage the retaining slit (see Figures 3, 5, 6) (claims 1, 16). Regarding claims 3 and 18, the cord is capable of being removably attached to the scrubbing material (see Figures). Regarding claims 4 and 18, the scrubbing material is a mesh netting (see Figures; Column 2 Lines 3-6). Regarding claims 5 and 19, the upper end of the handle is outwardly flared at its terminus (see Figure 2). Regarding claim 7, at least one retaining slit is oriented to be substantially parallel to the slot (as shown in the embodiment of Figure 5). Regarding claim 8, there is a plurality of retaining slits (see Figure 2). Regarding claim 12, wherein at least one of the retaining slits is formed in the upper end of the handle at a shoulder of the outwardly flaring terminus of the handle (as shown in Figures 2 and 4).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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2. Claims 2 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen, US 6,453,503 as applied to claims 1 and 16 respectively, in view of Chang, US 6,370,723.

Chen discloses all elements claimed above, however does not disclose a material from which the attaching cord comprises.

Chang discloses a handle having porous scrubbing material fastened to it by an attaching cord (66) that comprises string (Column 2 Line 43).

It would have been obvious for one of ordinary skill in the art at the time of the invention to modify the attaching cord so that it comprises string, as Chang teaches, in order to attach a handle to a porous scrubbing material that is to be used as a bathing tool.

3. Claims 6, 10, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen, US 6,453,503 as applied to claim 1, in view of Stenner, US 5,182,838.

Chen discloses the claimed invention including all elements mentioned above, however does not include that at least one of the retaining slits has a left interior face having a left central ridge extending outwardly and a right interior face having a right central ridge extending outwardly therefrom, the left and right ridges being in alignment with and opposing each other providing a raised surface.

Stenner teaches a device that has a retaining slit (50) that engages an attaching cord, such as a shoelace (30a, 30b) in order to non-permanently grip a cord in place (Abstract). The slit of Stenner has a left interior face having a left

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central ridge extending outwardly and a right interior face having a right central ridge extending outwardly therefrom (as shown in Figures 2A, 2B, 3A, 4A, 5A, 6), the left and right ridges being in alignment with and opposing each other providing a raised surface (again, as shown in Figures 2A, 2B, 3A, 4A, 5A, 6) along which the cord may be moved (Column 2 Lines 22-29). In addition, the retaining slit is lined with a non-skid material such as rubber (Figure 7; Column 6 Lines 14-24) in order to increase the surface friction and durability of the slit sidewalls (Column 6 Lines 14-20).

It would have been obvious for one of ordinary skill in the art at the time of the invention to modify the retaining slit(s) of Chen to further include left and right central ridges as well as being lined with a non-skid material, as Stenner teaches, so that the cord can be releasably locked or held into place with increased surface friction in the retaining slit so that the cord does not easily unfasten from the elongate handle.

4. Claims 13 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen, US 6,453,503 as applied to claim 1, in view of Chang, US 6,370,723.

Chen discloses the claimed invention including all elements mentioned above, however does not include a rearward side of the handle having at least one massage boss thereon.

Chang teaches a scrubbing device that a handle (12) that has a rearward side having at least one massage boss thereon (45; see Figures 1-4 particularly)

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so that a user can both clean with a porous scrubbing material (14) and massage the body using the same cleaning tool (Column 2 Lines 61-63, Column 3 Lines 30-35).

It would have been obvious for one of ordinary skill in the art at the time of the invention to modify the rearward side of the handle of the scrubbing device of Chen by including at least one massage boss, as Chang teaches, so that a user may use the same bathing and scrubbing equipment to also massage the body of the user.

5. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chen, US 6,453,503 as applied to claim 1, in view of Borchers et al., US 6,510,577.

Chen discloses the claimed invention including all elements mentioned above, however does not include at least a portion of the handle being covered with an exfoliation mat.

Borchers et al. teach a scrubbing device having both a handle (52) and porous scrubbing material (12) wherein a portion of the handle is covered with an exfoliation mat (46; see Figures 12-13). The device of Borchers et al. uses a device having both porous scrubbing material and an exfoliation mat so that a user can better exfoliate and remove dead cells from the skin while also maintaining a lather of soap (Column 1 Lines 17-31, Column 2 Lines 10-19).

It would have been obvious for one of ordinary skill in the art at the time of the invention to modify the handle of Chen to further include at least a portion of

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the handle being covered with an exfoliation mat, as Borchers et al. teach, so that a user may simultaneously use an exfoliation mat to remove dead skin cells while retaining a lather of soap with the porous scrubbing material to effectively clean the skin.

6. Claims 9 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen, US 6,453,503 as applied to claims 1 and 16 respectively, in view of Sabo, US D156,039.

Chen discloses the claimed invention including all elements mentioned above including a configuration in Figure 5 that has two slots parallel to each other just before the upper end of the handle is outwardly flared, however does not include that each of the two retaining slits has a different width.

Sabo teaches a holder for a porous scrubbing device wherein the retaining slits (unlabeled, shown in Figure 1) each have a different width (Figure 1). These slits are also located just before the upper end of the handle is outwardly flared.

It would have been obvious for one of ordinary skill in the art at the time of the invention to modify the widths of the two retaining slits of Chen to each have a different width, as Sabo teaches, so that a user would be capable of employing a cord of any desired or convenient width.

Response to Arguments

7. Applicant's arguments filed 14 June 2007 have been fully considered but they are not persuasive.

The Applicant contends that "Chen has no slots or slits as those terms are used in the instant disclosure." It is noted that the Applicant does not particularly clearly define "slot" or "slit" in the instant specification. The Applicant contends that "as clearly indicated in applicant's figures the slit and the slot that are called for in this claim are *elongated openings that extend through the body of the handle that are sized to allow engagement of an attaching cord therein.*" The Examiner has taken dictionary definitions of slit and slot (according to *The American Heritage® Dictionary of the English Language, Fourth Edition* Copyright © 2006 by Houghton Mifflin Company, a "slot" is defined as "a narrow opening: a groove or slit, and by the same source "slit" is defined as "A long, straight, narrow cut or opening) into account as well. By all of those definitions, Chen does in fact teach a slot and a slit as claimed (46 and 47). As best shown in Figures 2, 4, and 5 of Chen "46" and "47" are in fact elongated openings (elongated in the length direction) that extend through the body of the handle that are sized to allow engagement of an attaching cord therein, and they are also narrow openings. In the Applicant's remarks, the Applicant further maintains that the difference between the use of the Applicant's "slit" and the one of Chen is critical as it effects how a user is to affix a scrubbing element to the handle, however the device as claimed does not set apart such a difference.

The Applicant further argues that the combination of Chen and Stenner the combination of Chen and Chang, the combination of Chen and Borchers et al., and the combination of Chen and Sabo do not teach or suggest slots/slits in

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combination, however for the reasons stated above with regards to Chen, the Examiner respectfully disagrees.

Regarding Sabo, the Examiner does not understand the Applicant's argument that the combination of Chen and Sabo would render Chen's invention inoperable. The Examiner would expect that one of ordinary skill in the art would modify slits/slots of Chen for ones of differing widths, as Sabo teaches holder for a porous scrubbing device wherein the retaining slits (unlabeled, shown in Figure 1) each have a different width (Figure 1).

8. Applicant's arguments, filed 14 July 2007, with respect to 35 U.S.C. 102(e) and 35 U.S.C. 102 (b) rejections of Hillman (US 6,689,224) and Weaver (US 3,571,837) have been fully considered and are persuasive.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will

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the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura C. Guidotti whose telephone number is (571) 272-1272. The examiner can normally be reached on Monday-Thursday, 7:30am - 5pm, alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gladys Corcoran can be reached on (571) 272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Laura C Guidotti
Laura C Guidotti
Patent Examiner
Art Unit 1744

lcg